

**ENTERED**

August 11, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION****KEVIN L.,<sup>1</sup>****Plaintiff,****VS.****KILOLO KIJAKAZI,<sup>2</sup>****Acting Commissioner of Social Security,****Defendants.**§  
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§**CIVIL ACTION NO. 4:21-CV-02160****ORDER ADOPTING REPORT AND RECOMMENDATION**

Pending before the Court are the parties' cross-motions for summary judgment.

On July 27, 2022, Judge Palermo issued a Report and Recommendation ("R&R") (ECF No. 21), recommending that Plaintiff's Motion for Summary Judgment (ECF No. 15) be granted, and Defendant's Motion for Summary Judgment (ECF No. 19) be denied. Judge Palermo further recommended that Defendant's determination that Plaintiff is not disabled should be vacated, and that the case should be remanded to Defendant for further proceedings consistent with the R&R. ECF No. 21. The time for filing objections has passed, and no objections were filed.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed Judge Palermo's R&R for clear error. Finding no clear error, the Court adopts Judge Palermo's R&R in its entirety. Accordingly, Plaintiff's Motion for Summary Judgment (ECF No. 15) is hereby **GRANTED**,

<sup>1</sup> Pursuant to the May 1, 2018 "Memorandum Re: Privacy Concern Regarding Social Security and Immigration Opinions" issued by the Committee on Court Administration and Case Management of the Judicial Conference of the United States, the Court uses only Plaintiff's first name and last initial.

<sup>2</sup> The suit was originally filed against Andrew Saul, the then-Commissioner of the Social Security Administration ("SSA"). Pursuant to Federal Rule of Civil Procedure 25(d), Kilolo Kijakazi has been automatically substituted as Defendant.

Defendant's Motion to Dismiss (ECF No. 19) is **DENIED**, Defendant's determination that Plaintiff is not disabled is **VACATED**, and this case is **REMANDED** to Defendant for further proceedings consistent with Judge Palermo's R&R.

**IT IS SO ORDERED.**

**SIGNED** at Houston, Texas, on this the 11<sup>th</sup> day of August, 2022.

  
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KEITH P. ELLISON  
UNITED STATES DISTRICT JUDGE